

# END-OF-LIFE *Care*



## *Chapter 2*

Advance Care Planning

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## Chapter 2: Advance Care Planning

### Discussing Advance Directives with Your Patients



**A**dvance care planning allows patients to indicate how they want to be treated if they become seriously ill. It helps families and physicians make decisions when patients are unable to do so themselves.

Time spent on advance care planning may become crucial if a patient becomes unable to make his or her own decisions or state his or her wishes concerning health care. Physician involvement in advance care planning builds trust. It also increases professional satisfaction that comes from acting in a patient's best interest and reduces stress involved when caring for a patient who is dying.

Surveys show only 10 to 25 percent of Americans have documented their end-of-life choices or appointed a patient advocate. It is important to routinely introduce the topic of advance care planning to all patients, regardless of their age or current health.

#### Michigan's Durable Power of Attorney for Health Care

In general, an advance directive is a written advance care planning document that specifies how medical decisions should be made for a patient who is unable to make or express his or her wishes concerning health care.

Specifically, the durable power of attorney for health care (DPAHC) is the form of advance directive recognized by statute in Michigan (1998, Public Act 386).

To conform to Michigan law, a DPAHC must be signed by the patient, dated and witnessed. The patient designates someone, such as a relative or other person, as a patient advocate to make specified health care decisions for the patient if the patient is unable to do so, such as approving surgeries or medications, or even withholding or withdrawing treatment, if so specified in the patient's DPAHC document.

The designation of a patient advocate must be voluntary, in writing and witnessed by two people who are not the patient's spouse, relative, heir, physician, patient advocate, employee of the patient's life insurance or health insurance provider, or employee of the health facility treating the patient. The witness cannot sign

unless the patient appears to be of sound mind and under no duress, fraud or undue influence. A completed DPAHC copy should be placed into the patient's medical record file. Sometimes it can be difficult to find qualified witnesses, especially when in health care settings, so patients should be encouraged to complete a DPAHC as early as possible.

It is a good idea for patients to state in writing on the DPAHC form their general preferences regarding health care. For example, a person might state when medical technology should be used, and whether the patient advocate has the authority to withhold or withdraw medical care that may result in death.

#### How a Living Will is Different

A living will and a durable power of attorney for health care are both advance directives, but they are not the same things. A living will can be an unwitnessed written document through which a patient may state his or her wishes regarding various health care situations and treatments, including life-sustaining treatment.

There is no statutory law in Michigan that recognizes a living will. However, a living will might be

used as evidence of the patient's wishes. Because there is no Michigan law recognizing living wills, there is no special liability protection for a surrogate decision maker or physician who voluntarily chooses to follow a patient's wishes as stated in a living will.

## When a Durable Power of Attorney for Health Care Applies

A patient may authorize the patient advocate to make specified medical treatment decisions for the patient when the patient has been determined by the patient's physician and another physician or licensed psychologist to be unable to make or communicate such decisions.

A decision by the patient advocate to withhold or withdraw life-sustaining treatment from the patient may be made only if the patient has clearly and convincingly authorized such a decision, preferably in writing, and the patient has acknowledged that such a decision may allow his or her death.

## No Greater Liability Exposure for Physicians

The Michigan DPAHC law states that a person providing, performing, withholding or withdrawing care, custody or medical treatment as a result of the decision of an individual who is reasonably believed to be a patient advocate and who is reasonably believed to be acting within the authority granted by the designation is liable in the same manner and to the same extent as if the patient had made the decision on his or her behalf.

## Introducing the Topic of Advance Care Planning to Your Patients

Research shows that patients expect physicians to introduce the topic of advance care planning. The following steps should help ease the discussion:

1. Make it a routine process with every adult patient in your practice.
2. If your patient already has advance directive documents, ask to review the material and suggest any appropriate changes. Make a copy to place in the patient's record.
3. Explain the process. Discuss the durable power of attorney for health care and Designation of Patient Advocate Form (available from the Michigan State Medical Society at 517-337-1351) and have forms readily available. See other resources listed on the "For My Patients" page.
4. If your patient does not seem comfortable with the topic of advance directives, provide the information and be supportive,

## Discussing Organ and Tissue Donation

Organ and tissue donation is a very sensitive issue in many different cultures. It is important to approach the topic with as much knowledge as possible about the individual patient's beliefs and customs. Following are general suggestions for discussing organ and tissue donation with your patients:

- Approach the topic of organ donation with patients carefully and thoughtfully. If you are an organ donor, mention it to your patient when discussing the topic.
- Build organ donation options into your standard patient information forms, records or surveys.
- Choose a non-crisis visit to mention the subject, if possible. Patients are most likely to consider donation when they are healthy, calm and not distracted.
- Emphasize the positives. Organ donation is one of the most remarkable medical achievements of our time, but works only if people are willing to donate.
- Be simple and direct. Avoid complex medical jargon.
- Have organ donor cards and literature on organ donation available. Call the Michigan Office of the Gift of Life Foundation at 1-800-482-4881 or the local office of the Michigan Secretary of State.

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## Michigan's Do-Not-Resuscitate (DNR) Procedure Act

The Michigan Do-Not-Resuscitate (DNR) Procedure Act (1996 PA 193) is another advance directive option. In general, this directive requires that emergency personnel honor the health care wishes of the patient.

This law allows an adult patient or the patient advocate of an adult patient to complete a DNR order directing that no resuscitation be initiated if the patient arrests in a setting outside of a health care facility or institution.

The act gives a patient two ways to communicate with emergency personnel. The patient may wear a "Do-Not-Resuscitate" identification bracelet and the patient may have a copy of a DNR order readily available. After a health professional determines that the patient has no pulse or evidence of respiration, the patient may not be resuscitated if the patient is wearing the bracelet, or if the health professional is given a Do-Not-Resuscitate order. DNR bracelets are available by calling the Michigan Hospice and Palliative Care Organization at 1-800-536-6300.

but do not push the conversation unless some medical urgency exists.

5. Suggest that your patient discuss with family members or friends how care should be managed if the patient can no longer make those decisions.

## Reviewing Your Patient's Wishes

Once a patient has made decisions about his or her future care planning, it is important for the physician, patient and patient advocate to review the patient's wishes. This is your opportunity to correct inconsistencies or clear up misunderstandings.

After a durable power of attorney for health care form has been reviewed and accepted by the appointed patient advocate(s), the patient should give you a copy of the signed document to place in the patient's medical record file. Encourage your patient to keep duplicates and the original signed document with other important papers and give copies to the patient advocate and family members. Forms provided by the Michigan State Medical Society include a wallet card on which the patient may list the patient advocate(s) and telephone number(s). If the patient is being treated at a health care facility, a copy of the document should be filed there as well.

Assure your patients that their wishes will be honored if they become unable to make or communicate their own decisions, and that they will be kept as comfortable and pain free as possible. See the next chapter, "Pain and Other Physical Symptoms."

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## Advance Directive Resources

### Web Sites

[www.agingwithdignity.org/5wishes](http://www.agingwithdignity.org/5wishes)—Aging With Dignity—offers information about ordering an advance care document called “Five Wishes.”

[www.msms.org/servtls/dpa.pdf](http://www.msms.org/servtls/dpa.pdf)—Michigan State Medical Society—offers information for ordering Durable Power of Attorney for Health Care forms. Or call MSMS at 517-337-1351 to order forms.

[www.partnershipforcaring.org](http://www.partnershipforcaring.org)—Partnership for Caring: America’s Voices for the Dying—a national non-profit organization devoted to raising consumer expectations and demand for excellent end-of-life care. Offers advance directive information that is state-specific.

### Book

- ♦ Your life, your choices, planning for future medical decisions: How to prepare a personalized living will. Pearlman R., Starks H., Cain K., Cole W., Rosengren D., and Patrick D. Seattle, WA: Patient Decision Support: 1992.

### Article

- ♦ “Advance care planning.” Emanuel L., von Gunten C., Ferris F. Archives of Family Medicine: Vol. 9, No. 10 (Nov./Dec. 2000), p. 1181-1187.

### End-of-Life Care: Advance Care Planning

## Facts About a Durable Power of Attorney for Health Care

Taking the time now to complete a Durable Power of Attorney for Health Care form can save your loved ones from future confusion and anxiety if you ever become unable to communicate your own wishes regarding medical care. Please review the facts below and then obtain a form from one of the sources listed on the opposite side of this page.

### According to Michigan law:

1. Anyone who is age 18 or older, and of sound mind, may and should have a durable power of attorney for health care in case something happens and you can't make decisions for yourself. You can do this by completing a Durable Power of Attorney for Health Care form.
2. Michigan's Patient Advocate Act allows you to appoint a relative or other person as your patient advocate to make medical treatment decisions for you if you are unable do so yourself. You also may appoint a successor patient advocate in case your first choice is unavailable or becomes unwilling or unable to speak for you.
3. You may change the person you appoint as your patient advocate at any time and by any means of communication.
4. You may write on the form the types of treatment you do and do not want, including whether or not you want heroic measures such as a breathing machine to help you breathe, or feeding by tubes if you cannot eat and drink by yourself. You should discuss your wishes in detail with the person you have chosen as your patient advocate.
5. If you write on your form that you want your patient advocate to order doctors to withhold or withdraw life-sustaining treatment in certain situations, your wishes must be honored by the doctors. The only exception is in the case of a pregnant woman where doing so would directly result in her death and the death of her fetus.
6. A durable power of attorney for health care is different from a living will. A living will is a written document that you fill out, indicating your choices about various treatment options. If you have a living will, many experts believe you also should appoint a patient advocate using a Michigan Durable Power of Attorney for Health Care form. Your patient advocate then will have the right to enforce your choices as written on your living will.
7. You should give a copy of your durable power of attorney for health care form to your doctor, to your local hospital and to your patient advocate(s). You should keep an original copy with your other important papers. You might keep a copy in your purse or the name and telephone number of your patient advocate in your wallet.



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## Where to Get Durable Power of Attorney for Health Care Forms

1. Most local hospitals have these forms available at no charge at their patient registration areas.
2. Your family attorney may help you complete a Durable Power of Attorney for Health Care form.
3. Local legislators often have these forms available at no charge for people in the area they serve.
4. Contact the Michigan State Medical Society at 517-337-1351 and order two Michigan-specific officially endorsed Designation of Patient Advocate Forms for \$2. Or visit its web site at [www.msms.org/servtts/dpa.pdf](http://www.msms.org/servtts/dpa.pdf) to obtain information about ordering these forms by mail. This simple Designation of Patient Advocate Form can be completed by you at no additional cost.
5. Get advance directives by using the interactive CD-ROM "Completing a Life" at [www.completingalife.msu.edu](http://www.completingalife.msu.edu).
6. Learn more about advance directives in the "Five Wishes" model at [www.agingwithdignity.org/5wishes](http://www.agingwithdignity.org/5wishes).

### End-of-Life Care: Sharing Your Advance Care Plan

#### Important Issues to Discuss

Below are nine important issues to discuss with family, loved ones and health care providers as you make end-of-life decisions. Talking about these issues may be difficult, but it will help your loved ones decide what to do if you are not able to make these decisions yourself.

**Your Choice of a Spokesperson.** If you have designated a patient advocate or a spokesperson to express your wishes, make sure your loved ones and health care providers know who that person is, how to contact them and why you made that person your patient advocate.

**Your Beliefs and Values.** Talk about what makes life worth living to you, what would make it unbearable, and why.

**Health Conditions.** Explain how you feel about being kept alive if you are not able to speak for yourself.

**Life-sustaining Treatments.** How do you feel about life-prolonging treatments? Do you want them?

**Your Vision of Dying.** If you hope to die in a certain way—at home, in your sleep, free from pain—talk about it.

**Organ and Tissue Donation.** In order for your organs to be donated upon your death, your family must give permission for their removal. You must be sure your family knows that you want to be a donor.

**Funeral Arrangements.** Share your thoughts about the type of service you would like to have and what you want to have done with your remains.

**Documentation of Your Wishes.** If you have completed an advance directive or other similar statement, make copies for your physician, your patient advocate, family members, friends and health care institutions. Carry with you the name and telephone number of your patient advocate.

**How Others Should Use Your Advance Directive.** Your instructions and personal statements can be understood either as specific instructions or general guidelines. You can help others interpret your wishes by including something like this in your document:

- *"I would like the statements in my advance directive followed to the letter."*
- *"I would like the statements in my advance directive to be used as a general guide."*
- *"I want those statements that I have marked with a star (\*) followed to the letter because I feel very strongly about them. Use the rest of my statements as a general guide."*

Adapted from the advance care planning workbook, "Your Life, Your Choices" and from the interactive CD-ROM, "Completing A Life." Reprinted with permission.



